directs the making of these examinations and surveys[12] and prohibits any which it has not authorized.[13]

"As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, excepting as a different purpose is clearly shown". *United States* v. *Jefferson Electric Co.*, 291 U. S. 386, 396. In the light of that rule it is clear the general language of the Recovery Act on which plaintiff relies does not evidence intention on the part of Congress to change its well established policy. In respect of the required recommendation by the Chief of Engineers there is no inconsistency between the proviso and the statutes upon which rests the practice of his office. The Recovery Act may, and therefore it must, be read in harmony with the purposes evidenced by the provisions of the Rivers and Harbors Acts to which reference has been made. When so read the proviso requires that the recommendation of the Chief of Engineers be based on examinations, surveys and reports made in pursuance of these Acts and submitted to the Congress for its consideration when determining whether the project should

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1010; § 9, September 22, 1922, 42 Stat. 1043. 33 U. S. C., §§ 541, 542, 545, 546, 547, 568.

Preliminary examinations are first made, unless Congress expressly directs a survey and estimate, and if, upon such examination, the improvement is not thought advisable, no further action may be taken unless Congress so directs. 33 U. S. C., § 545. The subsequent detailed survey report is made by the district engineer, it is reviewed by the division engineer, by the Board of Engineers for Rivers and Harbors and finally by the Chief of Engineers who submits to Congress a report containing information of a character specified by the above statutes, together with his recommendation. As shown in footnote 10, a congressional committee may not consider a project with a view to its adoption if five years have elapsed since submission of a report on a survey. See 79 Cong. Rec., p. 5439, *et seq.* 1922 Report of Chief of Engineers, pp. 99, 100.

[12]Since September 22, 1922, the Acts authorizing preliminary examinations and surveys employ the following language: "The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities. . . ." § 12, 42 Stat. 1043.

[13]"That no preliminary examination, survey, project, or estimate for new works other than those designated in this or some prior Act or joint resolution shall be made". § 12, Act of September 22, 1922, 42 Stat. 1043. Typical language in the Acts appropriating for rivers and harbors is: "That no funds shall be expended for any preliminary examination, survey, project, or estimate not authorized by law." It is found, for example, in the Act of April 26, 1934, 48 Stat. 639-640, making appropriations for the fiscal year ending June 30, 1935.

be undertaken. The only change effected by the Recovery Act is that the improvement may be made if either "adopted by the Congress" or "recommended by the Chief of Engineers" whereas the prior practice required not only recommendation by the Chief of Engineers but also adoption by Congress; that is, the Recovery Act amounts merely to the adoption of projects that have been heretofore or hereafter may be recommended to Congress by the Chief of Engineers under the established practice.[14]

In accordance with definite policy long pursued by it, the Congress has committed to the Secretary of War and Chief of Engineers all investigations, surveys and work in aid of navigation. The Recovery Act discloses no intention to require that the Chief of Engineers' recommendations in respect of proposed improvements shall be made to the Administrator instead of to the Congress. The provisions of the Act brought forward by plaintiff make no such change. Plainly they are not sufficient to empower the Administrator to initiate preliminary examinations and surveys or to determine whether the Parker Dam or any work in aid of navigation shall be undertaken.

It is not shown that Congress ever directed a preliminary examination or survey by the Chief of Engineers of any project that includes this dam. This is a condition precedent to the recommendation required by the proviso. Failure to allege compliance warrants the conclusion that the recommendation relied upon lacks the support of examination and survey by army officers and review by the board of engineer officers required by law.

6. As the complaint fails to show that the construction of the dam is authorized, there is no ground for the granting of an injunction against the State, and therefore the complaint must be dismissed.

It is so ordered.

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[14]When the Recovery Act was enacted, Congress had before it the report of the Chief of Engineers for the fiscal year ended June 30, 1932. This report disclosed (p. 3) that 954 projects authorized by Congress were in force, that active operations were in progress upon 261 (p. 4), that reports on 242 preliminary examinations and surveys had been transmitted to Congress during the past fiscal year (p. 6), and that the Chief of Engineers had under consideration 302 investigations authorized by river and harbor and flood control acts. (p. 22.)